

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

**In the Matter of**

**Schools and Libraries  
Universal Service  
Support Mechanisms**

)  
)  
)  
)  
)  
)

**CC Docket No. 02-6**

**WORLDCOM, INC.  
COMMENTS**

**Larry Fenster  
1133 19<sup>th</sup> St., NW  
Washington, DC 20015  
202-736-6513**

**April 5, 2002**

**Table of Contents**

## Table of Contents

<b><u>I.</u></b>	<b><u>SUMMARY</u></b> .....	<b>1</b>
<b><u>II.</u></b>	<b><u>THE COMMISSION SHOULD DIRECT SLD TO MORE CAREFULLY SCRUTINIZE AND PRIORITIZE FUNDING REQUESTS</u></b> .....	<b>3</b>
A.	<u>THE COMMISSION SHOULD RECOMMEND THE SCHOOLS AND LIBRARIES DIVISION TO DEVOTE GREATER RESOURCES TO REVIEWING APPLICATIONS IN ORDER TO AVOID ACCIDENTAL FUNDING OF INELIGIBLE SERVICES</u> .....	3
B.	<u>THE COMMISSION SHOULD REDUCE THE FUNDING CAP BY FUNDING ONLY THE ANNUAL DEPRECIABLE AMOUNT OF ELIGIBLE ASSETS</u> .....	6
1.	<u>Annual Discounts For Internal Connections Should Be Based On The Annual Depreciable Amount Of Internal Connection Asset Value</u> .....	6
2.	<u>Annual Funding For Equipment Leases Should Be Based On The Annual Depreciable Amount of The Asset In Question</u> .....	7
C.	<u>THE COMMISSION SHOULD MAINTAIN ITS PRINCIPLE OF REQUIRING SCHOOLS AND LIBRARIES TO CHOOSE THE MOST COST EFFECTIVE INTERNET SERVICE</u> .....	8
<b><u>III.</u></b>	<b><u>THE COMMISSION SHOULD ALLOW PROVIDERS AND APPLICANTS SOME DEGREE OF POST-COMMITMENT FLEXIBILITY PROVIDED FLEXIBILITY IS ECONOMICALLY EFFICIENT AND DOES NOT INCREASE FUNDING REQUIREMENTS</u></b> .....	<b>10</b>
A	<u>PROVIDERS SHOULD CONTINUE TO BE PERMITTED TO DETERMINE WHETHER TO PROVIDE DISCOUNTS THROUGH USE OF THE BEAR FORM OR THROUGH DISCOUNTS ON BILLS</u> .....	10
B.	<u>THE COMMISSION SHOULD ESTABLISH A REBUTTABLE PRESUMPTION THAT PROVIDERS DISTRIBUTE DISCOUNTS WITHIN TWENTY DAYS OF RECEIVING THEM FROM USAC</u> .....	11
C.	<u>THE COMMISSION SHOULD OPEN A FURTHER NOTICE OF PROPOSED RULEMAKING TO FULLY CONSIDER THE BENEFITS AND COSTS OF GRANTING GENERAL WAIVERS TO ALLOW THE EXCESS SERVICE CAPACITY TO BE USED FOR NON-EDUCATIONAL PURPOSES</u> .....	12
D.	<u>SCHOOLS AND LIBRARIES SHOULD NOT BE PERMITTED TO TRANSFER ANY ASSET FUNDED WITH THE ASSISTANCE OF THE E-RATE PROGRAM</u> .....	13
<b><u>IV.</u></b>	<b><u>THE COMMISSION SHOULD RETURN UNUSED FUNDS TO CARRIERS BY REDUCING FUTURE CONTRIBUTION REQUIREMENTS</u></b> .....	<b>14</b>
<b><u>V.</u></b>	<b><u>THE COMMISSION SHOULD TAKE THIS OPPORTUNITY TO ACT ON WORLDCOM'S PETITION TO RECONSIDER ITS DECISION TO SEEK REPAYMENT FROM SERVICE PROVIDERS WHEN SLD HAS ERRONEOUSLY AUTHORIZED EXCESSIVE DISTRIBUTIONS TO SCHOOLS OR LIBRARIES</u></b> .....	<b>15</b>
<b><u>VI.</u></b>	<b><u>CONCLUSION</u></b> .....	<b>16</b>

## **I. Summary**

In the instant Notice of Proposed Rule Making (“NPRM”), the Commission seeks comments on various proposals to improve the administrative efficiency of the schools and libraries universal service mechanism (“E-rate Program” or “Program”). WorldCom, Inc. (“WorldCom”) has been an active provider of discounted services to schools and libraries since the initiation of the E-rate Program, and takes this opportunity to respond to the Commission’s proposals as well as offer its own suggestions to improve the operation of the Program.

WorldCom first recommends the Commission authorize the Schools and Libraries Division (“SLD”) to modestly increase the number of staff who provide case-by-case consultation and education in order to reduce confusion and errors that arise in the application and approval process. In contrast, the Commission appears to propose reducing confusion and error by limiting eligible services to those available from a pull-down list on the Schools and Libraries Division web site. While this proposal would be easy to administer, it could only be implemented if the Commission were to allow funding of services that might have non-educational uses.

WorldCom recommends that the Commission base annual discounts for internal connections, leased WAN service, and any other non-recurring service on the annual depreciable amount of the requested asset’s value, using the Commission’s standard economic lives for various assets to determine the annual depreciation rate. Doing so would encourage applicants to fully utilize services for which they have received funding, and discourage them from prematurely pursuing replacements. This policy would also permit the Commission to follow through on its commitment to reduce the funding cap below \$2.25 billion now that nearly every classroom has attained access to the Internet.

WorldCom urges the Commission to adhere to its principle of requiring applicants to choose the most efficient method of obtaining service. This principle would be violated were the Commission to fund both Internet access and content from an Internet access provider who bundles content and access, even though the same provider might also offer access and content separately.

WorldCom also urges the Commission to continue to permit carriers to refrain from providing discounts on bills for certain customers and certain services. Carriers developed their billing systems prior to the E-rate Program. There is often a mismatch between billing system requirements and the Commission's E-rate requirements. For example, WorldCom's billing systems must apply a single discount to all customers subscribing to the same tariffed service, even though they may be eligible for different discount levels under the E-rate Program. Because it would be administratively infeasible to modify billing systems which cover thousands of services, the Commission should permit carriers to refrain from providing discounts on bills when doing so would be prohibitively expensive.

Circumstances legitimately arise where carriers are unable to distribute funds to individual customers within twenty days of receiving an aggregate check from the Universal Service Administrative Company ("USAC"). For example, USAC may fail to identify particular schools or libraries that are to receive disbursements from the aggregate check. The Commission should therefore establish a rebuttable presumption that service providers should distribute discounts within twenty days of receiving them from USAC.

WorldCom recommends the Commission utilize comments it receives in this docket about whether and how to make excess E-rate services available for non-educational uses to open a Notice of Proposed Rulemaking to fully evaluate the benefits and costs. While low-

income communities across the country could benefit from such a policy if safeguards were put into place to prevent school and library funding requests from increasing above levels supported by educational goals, opening the entire E-rate Program to serving non-educational uses holds great potential for fraud as well as a potential for greatly increasing SLD administrative expenses preventing fraud.

The Commission should affirm that its existing rules prohibit any transfer of funded equipment to any other school, library, or any entity that provides services to schools or libraries. A school may indirectly receive a monetary benefit through future year budgetary increases by transferring subsidized equipment to another school in its school district. The Commission should prohibit this practice.

Finally, the Commission should return unused funds to carriers by reducing future contribution requirements. Unused funds should not be carried forward to permit funding above the cap in future years because there are no unmet Priority One service demands. In addition, the E-rate Program is close to having provided universal classroom access to the Internet. Equally important, the combination of the decline in long-distance revenues and significant increases in other universal service contribution requirements will require carriers to significantly increase surcharges. Consequently, these funds should be returned to contributing carriers.

## **II. The Commission Should Direct SLD To More Carefully Scrutinize And Prioritize Funding Requests**

### **A. The Commission Should Recommend The Schools And Libraries Division To Devote Greater Resources To Reviewing Applications In Order To Avoid Accidental Funding Of Ineligible Services**

In the NPRM, the Commission seeks ways to: 1) reduce confusion schools and libraries may have whether certain services are eligible for discount; and 2) reduce the possibility that the

SLD will accidentally fund ineligible services.<sup>1</sup> The Commission notes that SLD already maintains a web site with a list of categories of eligible and ineligible services to assist applicants apply for only eligible services. The Commission seeks comment on the desirability of limiting eligible services to services that have been pre-approved and made available for selection on SLD's web site.

WorldCom has concerns about this proposal. While it would certainly reduce the possibility for error, either by applicants or SLD, it appears to also require that the Commission eliminate the category of services that are eligible if certain conditions are met ("conditionally-eligible services"). For example, computers used as hubs to facilitate school-wide connections to the Internet are eligible for discounts, but not when used as individual workstations. Similarly, wireless devices are eligible for discounts when used by educational personnel for educational purposes, and are ineligible for discounts when used by support staff for non-educational purposes. The Commission adopted these limitations to meet the Congressional goal of promoting the use of telecommunications by schools and libraries *solely for educational purposes*.<sup>2</sup> Congress did not intend the E-rate Program to support the administrative capabilities of schools and libraries. Congress only intended the E-rate Program to support the direct educational efforts of schools and libraries. Determining whether conditionally eligible services are actually eligible necessarily requires first consultation between a schools or libraries and the provider, and then a case-by-case review by SLD.

There are two ways the Commission might eliminate the category of conditionally eligible services: 1) make all services in that category ineligible for funding, or 2) make all

---

<sup>1</sup> *Schools and Libraries Universal Service Support Mechanism*, Notice of Proposed Rule Making and Order, "NPRM", CC Docket No. 02-6, Released January 25, 2002, &14.

services eligible for funding. Neither path is in accord with Congress' intent to promote the *educational* use of telecommunications. For this reason, WorldCom also opposes broadening eligibility for wireless services to include non-educational uses.<sup>3</sup> Eliminating the category of conditionally-eligible services would no doubt reduce confusion and reduce administrative costs. However, minimizing administrative costs is not the same as administrative efficiency. Administrative efficiency occurs when one maximizes net benefits to society, which in this case means achieving Congress' goal of promoting maximal *educational* use of telecommunications for the minimal cost. If the Commission's proposal is premised on the elimination of the category of conditionally-eligible services, the proposal would reduce administrative costs by straying too far from Congress' programmatic goals. In WorldCom's opinion, net benefits would be reduced.

Schools and libraries would be better served were the Commission to authorize SLD to hire a modest number of additional staff to: 1) clarify the conditions under which services are eligible; 2) provide more in-depth review of applications; 3) request additional information from applicants and service providers to determine whether requested services are eligible and in conformity with schools' and libraries' technology plans; and 4) provide more in-depth review of invoices submitted for reimbursement.<sup>4</sup> GAO notes that SLD's administrative costs comprise a relatively small percentage of programmatic funds.<sup>5</sup> A modest increase in additional staff

---

<sup>2</sup> 47 U.S.C. §254(h)(1)(B)

<sup>3</sup> *Id.*, &21.

<sup>4</sup> Schools and Libraries Program: Application and Invoice Review Procedures need Strengthening, Report to the Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. Senate, Government Accounting Office ("GAO Report to Congress"), GAO-01-105, December 2000.

<sup>5</sup> *Id.*, at 28.

would permit SLD to provide greater clarity to applicants concerning the eligibility of conditionally eligible services without mechanically either limiting or broadening the funding of these services.

B. The Commission Should Reduce The Funding Cap By Funding Only The Annual Depreciable Amount Of Eligible Assets

1. Annual Discounts For Internal Connections Should Be Based On The Annual Depreciable Amount Of Internal Connection Asset Value

The Commission included internal connections as a service eligible for an E-rate discount in order to promote access to the Internet from each classroom. The Commission noted that the lack of inside wire to every classroom was an important factor explaining why even though 35 percent of public schools had access to the Internet, only 3 percent of classrooms were connected to the Internet.<sup>6</sup> The Commission also estimated that schools would need to spend approximately \$4 billion to complete the task of bringing wire to every classroom.<sup>7</sup>

Schools and libraries have spent substantially more than this amount on internal connections. During the first four years of the E-rate Program, the USAC has distributed \$4.6 billion on internal connections, and schools and libraries have spent \$573 million in order to obtain the \$4.6 billion subsidy.<sup>8</sup> Thus, \$5.2 billion has been spent on internal connections in direct association with E-rate Program. In addition, schools and libraries qualifying for subsidies less than 80 percent have no doubt spent substantial amounts of “non-matching” funds on

---

<sup>6</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, (“*Universal Service Order*”), CC Docket No. 96-45, Released June 4, 1997, &456.

<sup>7</sup> *Id.*, fn 1180.

<sup>8</sup> See, <http://www.sl.universalservice.org/funding/>.

internal connections.<sup>9</sup> The data show that schools are approaching the point where every classroom will have access to the Internet.<sup>10</sup> GAO reports that the Commission believes 100 percent of the classrooms in all schools will be connected to the Internet by 2003.<sup>11</sup>

The Commission has rapidly achieved the goal of wiring individual classrooms by funding, in one year, all of the discounted amount of the cost of an asset that happens to have a 16-23 year depreciable life.<sup>12</sup> Once the goal is achieved, it would be appropriate to subsidize only the annually depreciable amount of inside wire investment, and other internal connection investments. This would encourage schools and libraries that have already received inside wire discounts not to upgrade before the economic life of the internal connection has reached its end. It would also permit the Commission to follow through on its commitment to reduce the annual funding cap below \$2.25 billion once classrooms have obtained access to the Internet.<sup>13</sup>

## 2. Annual Funding For Equipment Leases Should Be Based On The Annual Depreciable Amount of The Asset In Question

The Commission seeks comment on whether it needs to modify its policy of funding requests for leased WAN service.<sup>14</sup> Currently, the Commission allows one-third of WAN-related capital expenses to be recovered through annual telecommunications service funding

---

<sup>9</sup> *Id.*, Eighty-seven percent of the internal connection subsidies went to schools qualifying for 80 percent subsidy levels or above.

<sup>10</sup> Maryland reports that between 1997 and 2002 the percent of wired classrooms increased from 23 percent to 82 percent, and that by 2003, all classrooms will be wired. *See*, Technology Inventory Summary, Maryland State Department of Education, <http://msde.aws.com>.

<sup>11</sup> GAO Report to Congress, at 34.

<sup>12</sup> Copper intrabuilding cable has a depreciable life of 15.71, and fiber intrabuilding cable has a depreciable life of 23.64. Depreciation lives may be obtained from the Commission's Synthesis Model. *See*, In the Matter of Federal-State Joint Board on Universal Service; Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, Fifth Report and Order, CC Docket No. 96-45; CC Docket No. 97-160, Released October 28.

<sup>13</sup> Universal Service Order, &534.

requests. Some parties contend that this policy has encouraged an increase in demand for leased WAN service, which in turn has reduced funds available for other Priority One services.<sup>15</sup> WorldCom agrees, and supports the Commission's proposal to extend the period of time over which WAN-related capital expenses are recovered to a period longer than three years. The Commission has already established rational economic lives of various capital assets, and should apply these lives to the various WAN-related capital expenses. More generally, the Commission should apply these economic depreciation lives to any funded asset that is not fully consumed during the funding year.

C. The Commission Should Maintain Its Principle Of Requiring Schools And Libraries To Choose The Most Cost Effective Internet Service

The Commission justified including Internet access as an eligible service on the grounds that it would be funding only "basic, conduit" Internet *access*, and not access to information content.<sup>16</sup> The Commission also permitted schools and libraries to receive funding for Internet content when it was bundled with Internet access, on the condition that the school or library choose the most cost-effective option of achieving Internet access.<sup>17</sup> Thus, if an Internet access provider bundled content and access, and also sold content and access separately, a school could purchase the bundled product and be reimbursed according to the price for stand-alone access service. A school could also purchase from an Internet access provider that offered only a bundled product if it could show that the bundled product was more cost-effective than the

---

<sup>14</sup> NPRM, &18.

<sup>15</sup> Id., &18.

<sup>16</sup> Universal Service Order, &&441.

<sup>17</sup> Id., &447.

stand-alone access products of competing Internet access providers.<sup>18</sup> The principle of requiring schools and libraries to choose the most cost-effective options is in keeping with the Commission's competitive bid requirements.<sup>19</sup>

In the NPRM, the Commission asks whether it would be more cost effective to permit a school or library to receive discounts on bundled Internet access and content, even when the bundling Internet access provider offers stand-alone access, when the bundled product is less expensive than a competing provider's unbundled access product.<sup>20</sup> Parties supporting this proposal suggest this policy would increase administrative efficiencies because it would reduce SLD's need to enforce existing prohibitions against funding ineligible services. The Commission should reject this proposal out-of-hand. As discussed above in relation to funding ineligible uses of wireless devices, it confuses minimizing administrative costs with administrative efficiency. SLD will certainly reduce administrative costs by failing to enforce the Commission's regulations. But this is a perversion of the concept of administrative efficiency. In the context the Congressional directive that the Commission promote greater telecommunications *access* for education purposes, it is administratively efficient to fund only the access portion of a bundled product when there are easy-to-observe valuations of stand-alone access and content.

---

<sup>18</sup> Id., &447.

<sup>19</sup> 47 C.F.R. §54.504(a).

<sup>20</sup> NPRM, &25.

**III. The Commission Should Allow Providers and Applicants Some Degree Of Post-Commitment Flexibility Provided Flexibility Is Economically Efficient And Does Not Increase Funding Requirements**

**A Providers Should Continue To Be Permitted To Determine Whether To Provide Discounts Through Use Of The BEAR Form Or Through Discounts On Bills**

The Commission's existing rules do not address the manner in which service providers must offer discounts.<sup>21</sup> SLD currently allows the service provider to determine whether discounts are to be provided by means of a Billed Entity Applicant Reimbursement (BEAR) form, or through a discount on the customer's bill.<sup>22</sup> WorldCom makes every attempt to let schools and libraries choose whether they will receive their funding through a discount on their bill or by filing a BEAR form with SLD. However, there are many times when it is administratively infeasible for carriers with complicated billing systems to provide discounts on bills. These situations occur due to a mismatch between the manner in which services are tariffed, accounts are identified, and the manner in which eligible E-rate services and customers are identified. For example, when WorldCom's tariffs include discounts, a single discount is applied to the complete invoice. There are cases where more than one school share the same account. These schools and libraries may have different funding request numbers (FRN) and may be authorized to receive different discount levels. Our billing system has no way to apply different, and multiple, discounts to a single invoice. Similarly an E-rate customer may have 20 telephone numbers on a single account, but only 10 of those numbers may be for eligible services. It would clearly be administratively infeasible for carriers to be required to modify

---

<sup>21</sup> 47 C.F.R. §54.505(a).

<sup>22</sup> See, <http://www.sl.universalservice.org/reference/discountsYr4.asp>: "If your service provider will provide discounts on your bills, the service provider will file a Form 474, Service Provider Invoice Form. If you will pay for your services in full and request reimbursement for your E-rate discounted amount, you will file a Form 472, Billed Entity Applicant Reimbursement (BEAR) Form."

their entire billing, account, and tariffing systems in order be able to provide a discount on a bill in each and every situation. In these instances, it is most efficient to permit carriers to require schools and libraries to file BEAR forms to receive their discount. The Commission should permit carriers to refrain from providing discounts on bills when doing so is administratively infeasible.

B. The Commission Should Establish A Rebuttable Presumption That Providers Distribute Discounts Within Twenty Days Of Receiving Them From USAC

The Commission seeks comment on whether service providers should be required to remit payments to schools or libraries within twenty days of receiving them from USAC.<sup>23</sup> WorldCom is generally able to meet this deadline, but has experienced instances when it is not possible. When carriers reimburse schools or libraries who receive their discount after submitting a BEAR form, the carrier receives a single check from USAC for payments to all its customers being reimbursed via the BEAR process. Along with the check, the carrier usually receives electronic remittance advice telling how much to reimburse each customer out of that single check. At times however, the electronic remittance advice is not provided, or does not provide all the needed information. At times, it has taken multiple resends and corrections to obtain the information to properly distribute reimbursements. WorldCom may not be able to meet a twenty day deadline in these situations. At other times WorldCom receives a check and direction to distribute a portion of a check to a school that is no longer its customer. WorldCom does not always retain contact information in this instance, and again, may not be able to distribute the proper funds within twenty days. Other instances outside a service provider's control may prevent it from meeting a twenty day distribution requirement. For this reason,

---

<sup>23</sup> NPRM, &35.

WorldCom recommends the Commission adopt a rebuttable presumption that providers distribute discounts within twenty days of receiving them from USAC.

C. The Commission Should Open A Further Notice Of Proposed Rulemaking To Fully Consider The Benefits And Costs Of Granting General Waivers To Allow The Excess Service Capacity To Be Used For Non-Educational Purposes

The Commission granted the State of Alaska a limited waiver of its rule that requires applicants to certify that services funded through the E-rate Program would be used solely for educational purposes.<sup>24</sup> The waiver permitted schools and libraries to make excess internet capacity available to the community under certain conditions designed to prevent the waiver from increasing the request for funding by schools and libraries. In addition, the waiver was limited not only to remote villages in Alaska, but also to conditions where there was a complete absence of local or toll-free dial-up Internet access in these villages.<sup>25</sup> Now, the Commission seeks comment on whether it should consider generally allowing schools and libraries to make excess services (internet and telecommunications) available to local communities.<sup>26</sup> WorldCom believes that low-income communities across the country could benefit from such a policy if safeguards were put into place to prevent school and library funding requests from increasing above levels supported by educational goals. This would require not only identifying the areas of possible fraud and then prohibiting these actions, but also devoting significantly greater resources to auditing and enforcement of these prohibitions. Opening up the entire E-rate Program to serving non-educational uses holds great potential for fraud as well as a potential for

---

<sup>24</sup> Federal-State joint Board on Universal Service, Petition of the State of Alaska for Waiver for the Utilization of Schools and Libraries Internet Point-of-Presence in Rural Remote Alaska villages Where No Local Access Exists and Request for Declaratory Ruling, CC Docket No. 96-45, Order, (“Alaska Order”), Released December 3, 2001.

<sup>25</sup> Id., &6.

<sup>26</sup> NPRM, &46.

greatly increasing SLD administrative expenses preventing fraud. WorldCom recommends the Commission review comments it receives in this docket and then use these comments to solicit a more detailed record able to evaluate the benefits and costs.

D. Schools and Libraries Should Not Be Permitted To Transfer Any Asset Funded With The Assistance Of The E-rate Program

The Commission's rules prohibit any service funded on the E-rate Program from being "...transferred in consideration for money or any other thing of value."<sup>27</sup> The Commission states that some schools and libraries who qualify for funding at high discount levels have been transferring funded equipment to other schools and libraries in their school districts that may not be eligible for such funding, and then immediately reapplying for the same or similar equipment. The Commission maintains that its rules do not prohibit equipment from being transferred without consideration for money or any other thing of value, and so seeks comment on ways to prohibit this violation of the spirit of its rules. WorldCom maintains that any transfer of equipment to a school in the same funded district permits the entire school district to monetarily benefit from the transfer by fraudulently reducing district-wide equipment expenditures. This in turn, accrues to the benefit of the school who transfers the equipment through the normal allocation of funds through district budgets. The Commission should simply prohibit any transfer of funded equipment to any other school, library, or to any entity that provides any services to schools or libraries. The Commission's proposal to limit transfers for three years for some equipment and 10 years for others would no doubt reduce the incidence of fraud, but there is no need to tolerate even modest amounts of fraud, when a simple clarification will entirely prohibit the practice.

---

<sup>27</sup> 47 C.F.R. §54.617(a).

#### **IV. The Commission Should Return Unused Funds To Carriers By Reducing Future Contribution Requirements**

If the E-rate Program were perfectly administered, the discount levels for eligible services would generate funding requests equal to the funding cap, and contributions made up to the cap would perfectly equal disbursements. A major cause of unused funds associated with recurring services, mostly Priority One services, is that the actual usage by schools and libraries is less than their estimated telecommunications usage. There is no unmet need when funds collected in excess of actual usage are not distributed to applicants in this case. The Commission generally cites the failure to timely submit required documentation as a cause of undistributed funds, but in the case of recurring services, so long as documentation is provided before the end of the program year, carriers are able to provide retroactive credits to their customers.<sup>28</sup> Undistributed funds associated with recurring services also do not prevent meeting the needs of other Priority One services, since funding requests for Priority One services only account for approximately one-half of the E-rate funds, and are fully committed before Priority Two service commitments are established.

In contrast, Priority Two Service funding requests greatly exceed funding commitments. SLD reports that Year 5 funding requests equaled \$5.7 billion, meaning schools and libraries are requesting nearly \$3.5 billion more than they receive in Priority Two commitments.<sup>29</sup> However, this amount does not reflect a true, unmet need. The Commission authorized the funding of internal connections in order to promote Internet access to every classroom. That goal will be

---

<sup>28</sup> This practice may trigger SLD's automatic rejection of claims that exceed 70 percent of an applicant's authorized annual discount. WorldCom requests the Commission to direct SLD to limit this policy of automatically rejecting large claims to such claims made during the first quarter of the funding year. Large claims for recurring service discounts made during the second half of the funding year often occur due to delays such as delays providing documentation or delays the customer may have experienced in receiving their funding commitment decision letter.

<sup>29</sup> "SLD Provides Demand Estimate for Funding Year 5 to FCC," <http://www.sl.universalservice.org/>.

attained in the next few years. Therefore, there is not a strong argument to permanently adopt a policy to allow unused funds to be carried forward to fund additional internal connections. This is especially important in light of various proposals that would significantly increase the size of universal service mechanisms. WorldCom estimates that these proposals would increase annual universal service funding requirements from the current size of \$5.5 billion to \$8 billion.<sup>30</sup> The combination of the decline in long-distance revenues and significant increases in other universal service contribution requirements will require carriers to significantly increase surcharges. Consequently, unused E-rate funds should be returned to contributing carriers by reducing their subsequent contribution requirements.

**V. The Commission Should Take This Opportunity To Act On WorldCom's Petition To Reconsider Its Decision To Seek Repayment From Service Providers When SLD Has Erroneously Authorized Excessive Distributions To Schools or Libraries**

In its October 1999 Order, the Commission directed the USAC to seek repayment of erroneously or illegally disbursed funds from service providers, rather than from schools and libraries.<sup>31</sup> WorldCom, USTA, and Sprint petitioned ("Petitioners") the Commission to reconsider this decision, arguing that the Commission erred by making carriers responsible for errors made by SLD or possible fraud committed by applicants.<sup>32</sup> Petitioners argued that carriers

---

<sup>30</sup> WorldCom Comments, Federal-State Joint Board on Universal Service, CC Docket No. 96-45; 1998 Biennial Regulatory Review – Streamlined Reporting Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, CC Docket No. 98-171; Telecommunications Services for Individuals with hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571; Administration of the North American Number Plan and North American Numbering Plan Cost Recover Contribution Factor and Fund Size, CC Docket No. 92-237, NSD File No. L-00-72; Number Resource Optimization, CC Docket No. 99-200; Telephone Number Portability, CC Docket No. 95-116, filed June 25, 2001, at 9.

<sup>31</sup> Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service, Order, CC Docket No. 97-21 and 96-45, Released October 8, 1999.

<sup>32</sup> Petitions for Reconsideration of MCI WorldCom, USTA, Sprint -- Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service, Order, CC Docket No. 97-21 and 96-45, filed November 8, 1999.

had no authority or ability to review the eligibility of services requested by their customers or the level of funding commitments authorized by SLD. Consequently, it would be both unlawful and inequitable to make them liable for mistakes over which they had no control. Now that the Commission has undertaken a general review of the E-rate Program with the goal of bringing greater rationality and efficiency, WorldCom urges the Commission to grant its Petition.

## **VI. Conclusion**

For the reasons stated herein, WorldCom urges the Commission to adopt the positions advocated in these Comments.

Sincerely,

**Larry Fenster**

Larry Fenster

## Statement of Verification

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct.

Executed on April 5, 2002

Larry Fenster

Larry Fenster  
1133 19th St., NW  
Washington, DC 20036  
202-736-6513